IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.9586 of 2004

Date of Decision: 12.3.2007

Paramveer Kaur .....Petitioner

Versus

State of Punjab and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.ML Sachdeva, Advocate
for the petitioner.

Mr.BS Chahal, AAG Punjab for the respondents.

***

J.S.KHEHAR, J. (Oral)

The Department of Education, Punjab issued an advertisement dated 28.6.2001 inviting, inter alia, applications for appointment against the posts of Lecturer in Physical Education (Female). The petitioner responded to the aforesaid advertisement. The name of the petitioner was placed at Serial No.1 in the waiting list. It is, therefore, apparent that the petitioner's name did not fall within the zone of selection. The candidates, whose names fell within the zone of selection, were issued appointment letters. Consequently, the selected candidates including Amarjit Kaur (respondent No.3) were issued offer for appointment of Lecturer in Physical Education. Despite the selection of respondent No.3, she did not assume her duties in furtherance of offer of appointment. Consequently, one of the advertised posts remained unfilled.

The claim of the petitioner for appointment against the unfilled vacancy was declined, according to the learned counsel for the respondents, on the basis of Policy instructions dated 22.3.1957, placed with the file of this case as Annexure R1 with the written statement. A perusal of Annexure

R1 would reveal that in case additional vacancies arise, which are not intimated to the Subordinate Services Selection Board, the appointments are to be made from the waiting list. According to the learned counsel for the respondents, the petitioner was not appointed on account of the fact that period of six months had expired.

It is not possible for us to accept the contention of the learned counsel for the respondents for two reasons; firstly, the policy instructions relied upon by the respondents dated 22.3.1957 relate to additional vacancies in addition to those which were intimated by the Department and if such vacancies occur within a period of six months from the date of recommendation at the hands of the selection Board, then without going through a fresh process of selection, the State Government can pick up candidates already selected by the selection Board subject to the conditions that the vacancies become available within six months from the date of recommendation by the Subordinate Services Selection Board. Herein the petitioner claims appointment on account of his merit position against one of the advertised posts, and as such, the instructions relied upon have been wrongly applied to this case. Secondly, it is apparent that in the instant case, the respondents were desirous of filling up one of the advertised posts. In the first instance, the offer was made to respondent No. 3. This also depicts the intention of the respondents for filling up the said vacancy. Since Amarjit Kaur, respondent No.3 did not accept the offer of appointment, it was imperative for the respondents to extend the offer to the petitioner who was at Serial No.1 in the waiting list.

In view of the above, the instant writ petition is allowed. The respondents are directed to issue an offer of appointment to the petitioner forthwith.

(J. S. KHEHAR)
JUDGE

(S. D. ANAND)
JUDGE

March 12, 2007
SRM